



REQUEST FOR COUNCIL ACTION

The City of Greenville, South Carolina

Agenda Item No.

To: Honorable Mayor and Members of City Council

From: John F. Castile, City Manager

10a

☐ Ordinance / First Reading ☒ Ordinance / Second & Final Reading ☐ Resolution / First & Final Reading ☐ Information Only

AGENDA DATE REQUESTED: June 27, 2011

ORDINANCE/RESOLUTION CAPTION:

TO AMEND ARTICLE VII OF CHAPTER 24 OF THE CITY CODE TO PROVIDE FINDINGS FOR THE ADOPTION OF THE CURFEW FOR MINORS ORDINANCE, TO MAKE MISCELLANEOUS CLARIFICATIONS IN WORDING, AND TO RECONCILE THE CURFEW PROVISIONS WITH OTHER PROVISIONS IN THE CODE

SUMMARY BACKGROUND:

On October 19, 2009, City Council adopted Ordinance 2009-80, the Curfew for Minors Ordinance, in order to address a specific pattern of behavior that affected the safety of minors and public order in the downtown area on weekends nights and nights preceding holidays. The ordinance has proved successful while still allowing young people an active and meaningful participation in the downtown and in community life. City Council finds that the original ordinance in its "Whereas" clauses laid out the circumstances leading to the adoption, but those were omitted from the codification. The purpose of this Ordinance is to make clear the facts and circumstances making such an ordinance necessary; to make clear the specific intent and objectives of Council in order to assure a proper interpretation of the provisions; to make some grammatical and syntax corrections to the ordinance; and to provide on the face of the ordinance an explanation of how it interacts with the City's picketing ordinance and to address religious services and group redress of grievances.

IMPACT IF DENIED:

The Curfew Ordinance as codified will not be amended.

IMPACT IF APPROVED:

The Curfew Ordinance will be amended to reflect the conditions and purpose for its adoption, to make miscellaneous clarification in wording, and to reconcile the curfew provisions with other provision in the code.

FINANCIAL IMPACT:

None.

REQUIRED SIGNATURES

Department Director

OMB Director

City Attorney

City Manager

Cheryl Wilkins

David W. Wilkins

(Certification of Availability of Funds)
John F. Castile

A N O R D I N A N C E

TO AMEND ARTICLE VII OF CHAPTER 24 OF THE CITY CODE TO PROVIDE FINDINGS FOR THE ADOPTION OF THE CURFEW FOR MINORS ORDINANCE, TO MAKE MISCELLANEOUS CLARIFICATIONS IN WORDING, AND TO RECONCILE THE CURFEW PROVISIONS WITH OTHER PROVISIONS IN THE CODE

WHEREAS, On October 19, 2009, City Council adopted Ordinance 2009-80, the Curfew for Minors Ordinance, in order to address a specific pattern of behavior that affected the safety of minors and public order in the downtown area on weekends nights and nights preceding holidays; and

WHEREAS, the ordinance has proved successful while still allowing young people an active and meaningful participation in the downtown and in community life; and

WHEREAS, City Council finds that the original ordinance in its "Whereas" clauses laid out the circumstances leading to the adoption, but those were omitted from the codification; and Council desires to make clear the facts and circumstances making such an ordinance necessary and to make clear as well the specific intent and objectives of Council in order to assure a proper interpretation of the provisions; and

WHEREAS, City Council further desires to make some grammatical and syntax corrections to the ordinance and to provide on the face of the ordinance an explanation of how it interacts with the City's picketing ordinance;

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GREENVILLE that Article VII, "Curfew for Minors," of Chapter 24 shall be amended to include "Findings" to reflect accurately the circumstances leading to the adoption of Ordinance No. 2009-80. The same article shall be further amended to make certain corrections in wording for purposes of grammatical accuracy and specificity to avoid misinterpretations and to reconcile the limitations of the Curfew Ordinance with the opportunities for orderly free expression provided for by the City's Picketing Ordinance. For the foregoing purposes the attached Exhibit is incorporated by reference with additions to Article VII of Chapter 24 being shown in underlined words and repealed provisions being shown in struck words.

DONE, RATIFIED AND PASSED THIS THE _____ DAY OF _____, 2011.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

REVIEWED:

CITY MANAGER

EXHIBIT
REVISIONS TO CURFEW FOR MINORS ORDINANCE

ARTICLE VII. CURFEW FOR MINORS

Sec. 24-301. Findings; Curfew declaration, hours, and location.

(A) Findings. During the course of 2007, 2008, and 2009 the number of teenagers congregating in the central business district increased dramatically. Security cameras detected some youths wearing garments indicative of gang status and circulating among younger teens, and council developed concerns that the conditions were conducive to gang recruitment of younger teens unsupervised by adults. Increasingly males who appeared to be in their late teens to early twenties were seen escorting younger female teens into darker, more secluded areas. There were repeated instances of fights breaking out on sidewalks and in streets and plazas during the hours after ten o'clock. Increasingly the teenagers were walking into streets and among vehicles without regard to crosswalks or traffic signals. Some youths began pounding on the hoods of vehicles with their fists. In one instance a fist fight spilled into the dining area of a busy downtown restaurant. On one occasion the dynamics were so serious that all police on duty in the City had to be dispatched to the central business district to protect minors and adults alike. No similar instances occurred elsewhere in the City or on week nights in the downtown. For the safety of the public in general, and especially for minors unaccompanied by a parent, guardian, or custodial adult, Council recognized the need for a curfew, but also determined that the curfew should be as narrowly drawn as possible so that the entire City of Greenville, and the downtown in particular, should remain as open as possible and as welcoming as possible to all people of all ages at all times.

(B) Curfew declaration, hours, and location. There shall be a curfew applicable to minors to be on the public streets, public sidewalks, public plazas, and public park space within the central business district as defined by the official zoning map of the City of Greenville between the hours of 10:00 p.m. on Friday night and 6:00 a.m. Saturday morning and also between the hours of 10:00 p.m. on Saturday night and 6:00 a.m. on Sunday morning. Further, whenever there is an observed federal bank holiday, there shall be a curfew for minors for the same locations from 10:00 p.m. the night before the holiday until 6:00 a.m. the next morning. For purposes of this article a minor is any person who has not yet reached 18 years of age. [NOTE: This shall apply to Christmas Eve and New Year's Eve]

(Ord. No. 2009-80, § 1, 10-19-09)

Sec. 24-302. Violation of curfew unlawful.

It shall be unlawful during the curfew hours provided under section 24-301 for any minor under the age of 18 years to walk, linger, sit, stand, run, or lie down on any sidewalk, street, plaza, or park space within the central business district except as specifically exempted from coverage under the provisions of section 24-303 below. Nor shall any minor under the age of 18 years of age drive or ride in or upon any motor vehicle or other device having wheels in the central business district during the prescribed curfew hours.

(Ord. No. 2009-80, § 2, 10-19-09)

Sec. 24-303. Exemptions.

Persons under 18 years of age shall not be subject to the curfew provisions of section 24-301 when the following conditions or circumstances apply:

- (a) The minor is accompanied by a parent, by a duly appointed guardian, or by a custodial adult who is a member of the same household as the minor and who is capable of demonstrating full care and custody of the minor;
- (b) The minor is an emancipated minor;
- (c) The minor is in transit and is proceeding directly ~~from~~ between home ~~to~~ and:
 - (1) A church or other place of worship for religious services;
 - (2) A place of bona fide employment;
 - (3) A hospital or urgent care facility for purposes related to a medical condition needing attention; or
 - (4) A destination under the written directive of a parent, guardian, or custodial adult for purposes of performing an errand provided a direct route is clearly and reasonably being taken.
- (d) The minor is engaged in bona fide employment in the central business district and is subject to supervision of an adult who is physically present in the streets, sidewalks, plazas, or parks of the central business district and who is actively supervising the minor;
- (e) The minor is a volunteer in a structured program delivering civic, religious, or educational services in connection with a special event which has been permitted by the city, provided the minor is subject to supervision of an adult who is physically present in the streets, sidewalks, plazas, or parks of the central business district and who is actively supervising the minor;

(f) The minor has exited an arena, performance hall, theater, baseball stadium, ball, or like destination for entertainment or spectator sports, and the minor can present substantiating evidence of having been to such a venue and can demonstrate that the minor is taking the most direct route to a motor vehicle or designated retrieval space that is not on a sidewalk, or street;

(g) The minor is engaged in interstate travel; or

(h) The minor resides in the central business district and is situated in public space adjoining the building containing ~~directly to~~ the minor's residence.

(i) The minor is engaged in picketing activity as described and regulated in Section 36-142 of this Code, provided the minor has provided the police department at least twenty four hours advance notice as to the name of the minor and the time, date, and place for such picketing activity.

(j) The minor is participating in a religious service, vigil, or activity reasonably described as an assembly for the redress of grievances which is conducted under the auspices of a special event permit and which is organized and supervised by an adult applicant. This exemption does not apply to a social or entertainment gathering except when the minor is accompanied by a parent, guardian, or custodial adult.

(Ord. No. 2009-80, § 3, 10-19-09)

Sec. 24-304. Penalties and retention.

Any minor violating the provisions of this article is subject to a civil fine in an amount equal to the dollar amount of the general penalties clause, section 1-5 of the City Code, but shall not be subject to a jail term. The police are authorized to take custody of a minor failing to obey a directive to leave the central business district and to retain custody of the minor at a central location of the choosing of the city manager in consultation with the police chief until the minor is retrieved by the minor's parent, guardian, or custodial adult ~~of the same household.~~ Nothing in this elause article precludes other charges or other penalties for violations under other provisions of law, including, but not limited to, disorderly conduct and assault and battery.

(Ord. No. 2009-80, § 4, 10-19-09)
